IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9789 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

VAGHELA ASHOKBHAI MOHANBHAI

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 9789 of 2004

MR.RAJESH B SONI for Petitioner No. 1-6

Ms.Pandit, Asst.Govt.Pleader for Respondent No.1&2

Mr.Munshaw for Respondent No. 3 &4

CORAM : HON'BLE MR.JUSTICE JAYANT PATEL

Date of decision: 04/11/2004

ORAL JUDGEMENT

As the notice for final disposal was already

issued matter is finally heard today.

2. Upon hearing Mr.Soni for the petitioner, Ms.Pandit, AGP for respondent Nos 1 ande 2 and Mr.Mushaw for respondent Nos 3 & 4, it appears that there is no dispute on the point that the present matter is covered by the decision dated 29.10.04 of this court rendered in SCA No.4805/04 and therefore in view of the reasons recorded in the said decision the same directions are required to be issued which are as under:

3. In view of the above, petition is partly allowed to the extent that the order dated 10.3.04 passed by the State Govt in Appeal No.8/2003 so far as it relates to dismissing of appeal on the ground that the construction is over 50 Ft DP road, is set aside with further direction to the State Govt to reconsider the appeal in the light of subsequent sanction of the area development plan, dated 23.7.04 whereby the said DP road is cancelled and to decide the matter after after affording opportunity of hearing to the petitioner in accordance with law as early as possible preferably within a period of three months from the date of receipt of writ of this court.

8. Until the appeal is finally decided and the order is communicated the statusquo of construction shall be maintained.

9. Petition is partly allowed to the aforesaid extent. Rule is made absolute accordingly. Considering the facts and circumstances, there shall be no costs.

4.11.04 (JAYANT PATEL,J)